

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Vols Equities, LLC)
 Parcel ID #108BB-004) Knox County
 Commercial Property)
 Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$2,000,000	\$4,137,900	\$6,137,900	\$2,455,160

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 23, 2007 in Knoxville, Tennessee. In attendance at the hearing were registered agent Betty Sellers and Knox County Property Assessor's representatives Jim Beck and Ralph Watson.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a vacant 240 unit apartment complex undergoing renovation. Subject property is located at 2521 Kingston Pike near the campus of the University of Tennessee in Knoxville.

Subject property was previously owned by the State of Tennessee and utilized for married student housing by the University of Tennessee. In 2006, the State of Tennessee offered subject property for sale through a sealed bid process. The minimum bid required was \$3,700,000. The taxpayer's bid of \$6,100,000 was the highest of four bids received. The taxpayer's bid was accepted and the property was conveyed by quitclaim deed on November 13, 2006.

The taxpayer contended that subject property should be valued at approximately \$4,000,000 as of January 1, 2007.¹ In support of this position, Ms. Sellers argued that the seller was extremely motivated and paid top dollar for subject property. Ms. Sellers introduced an income approach which she asserted supports a stabilized value of \$5,694,928 following completion of the renovations and lease-up. Given a 2007 appraisal ratio for Knox County of 90.94% and the minimum required bid of \$3,700,000, Ms. Sellers essentially maintained that subject property had an equalized market value significantly lower than \$6,137,900 on January 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

¹ See paragraph 15 of the appeal form.

The assessor contended that subject property should be valued at \$6,137,900. In support of this position, the assessor argued that the taxpayer's purchase of subject property on November 13, 2006 for \$6,100,000 supports the current appraisal of subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$5,581,800 *after* equalization. As will be discussed below, the administrative judge finds that the assessor's current appraisal of \$6,137,900 should be adopted as subject property's market value as of January 1, 2007. Given a 2007 appraisal ratio for Knox County of 90.94%, the administrative judge finds that the adopted market value must be reduced accordingly ($\$6,137,900 \times .9094 = \$5,581,806$).

The administrative judge finds the fact that the taxpayer was a "motivated" buyer does not mean the taxpayer was under duress and bid in excess of subject property's market value. The administrative judge finds that the assessor's appraisal and the taxpayer's purchase price differ by less than 1% and are mutually supportive.

Respectfully, the administrative judge finds that Ms. Sellers' income approach must be accorded less weight absent additional evidence. Most importantly, the administrative judge finds that no market data was introduced concerning vacancy and collection loss, expenses and capitalization rates.

Based upon the foregoing, the administrative judge finds that a market value of \$6,137,900 should be assumed as of January 1, 2007. However, the administrative judge finds that the adopted market value must be reduced by the 2007 appraisal ratio for Knox County in order to achieve equalization. This conclusion stems from a finding that under the Constitution of the State of Tennessee, Article II, Section 28, the "ratio of assessment to value of property in each class or subclass shall be equal and uniform throughout the state." Equalization relief must be granted in order to comply with this constitutional mandate. This is also required by *Louisville and Nashville Railroad v. Public Service Commission*, 493 F.Supp. 162 (M.D. Tenn. 1978), the decisions of the State Board of Equalization in regard to public utility appeals since 1977, Tenn. Code Ann. § 67-5-601 and the decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (State Board of Equalization) (Davidson County, Tax Years 1991-1992).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$2,000,000	\$3,581,800	\$5,581,800	\$2,232,720

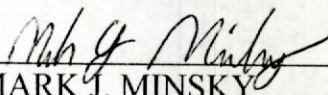
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of November, 2007.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Betty A. Sellers
 John R. Whitehead, Assessor of Property